

# **INFORMATION SHEET**

## **DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK COUNTY V. U.S. ARMY CORPS OF ENGINEERS**

DISTRICT OFFICE: Saint Paul District  
FILE NUMBER: MVP-2007-1612-DJP  
PROJECT MANAGER: Dale Pfeiffle

PROJECT REVIEW/DETERMINATION COMPLETED: In the office? Y ☒ N ☐ Date: Apr. 17, 2007  
At the project site? Y ☐ N ☐ Date:

### **PROJECT LOCATION INFORMATION:**

State: Wisconsin  
County: Racine & Walworth  
Center coordinates of site by latitude & longitude: 42.6602242068N, 88.2982991475W  
Approximate size of site/property (including uplands) in acres: 190  
Name of waterway or watershed: Upper Fox, Illinois, Wisconsin

Type of Aquatic Resource:	0-1 ac	1-3 ac	3-5 ac	5-10 ac	10-25 ac	25-50 ac	> 50 ac	Linear Ft	Unknown
Lake									
River									
Stream									
Mudflat									
Sandflat									
Wetlands			3.35 ac						
Slough									
Prairie Pothole									
Wet Meadow									
Playa Lake									
Vernal Pool									
Natural Pond									
Other Water (identify type)									

1 Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

Migratory Bird Rule Factors	If Known		If Unknown Use Best Professional Judgment		
	Yes	No	Predicted to Occur	Not Expected to Occur	Not Able to Make Determination
Is or would be used as habitat for birds protected by Migratory Bird Treaties?			X		
Is or would be used as habitat by other migratory birds that cross state lines?			X		
Is or would be used as habitat for endangered species?				X	
Is used to irrigate crops sold in interstate commerce?				X	

1 Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

**TYPE OF DETERMINATION:** Preliminary ☐ Or Approved: ☒

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ADDITIONAL INFORMATION SUPPORTING njd (e.g., paragraph 1 site conditions; paragraphs 2-3 rationale used to determine NJD, including information reviewed to assess potential navigation or interstate commerce connections; and paragraph 4 site information on waters of the U.S. occurring onsite): An application was received for a Department of the Army permit to construct approximately 5.15 miles of State Highway bypass around the south and west sides of Burlington, Wisconsin. A wetland delineation was completed within the project corridor and identified 15 separate wetland complexes with a combined surface area of 20.39 acres. 8 separate wetlands with a combined surface area of 17.04 acres were determined to be adjacent to tributaries to the Fox River, a navigable water of the US and are jurisdictional waterbodies.

The other 7 wetlands with a combined surface area of approximately 3.35 acres are confined to isolated depressions that lack a surface water connection and adjacency to nearby Fox River tributaries. Connections between the wetlands and interstate commerce was also considered but could not be identified. Therefore, these wetlands are isolated waters that would not be subject to Corps Section 404 jurisdiction.